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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

**MEDICAL DEVELOPMENT
INTERNATIONAL, a Delaware corporation,**

Plaintiff,

v.

**ROBERT SILLEN, individually and as
Receiver, and THE CALIFORNIA
DEPARTMENT OF CORRECTIONS AND
REHABILITATION,**

Defendants.

2:07-CV-02199-WBS-EFB

**AMENDED JOINT STIPULATION
TO CONTINUE HEARING ON
PENDING MOTIONS AND THE
STATUS CONFERENCE**

Hearing: January 7, 2008
Time: 2:00
Courtroom: 5
Judge: The Honorable
William B. Shubb

Pursuant to Eastern District Local Rule 6-144, Plaintiff Medical Development International (MDI), Defendant California Department of Corrections and Rehabilitation (CDCR) and Defendant Robert Sillen ("Sillen"), as an individual and as a federal receiver, by counsel, submit this Joint Stipulation to continue the hearing date of Defendants' Motions to Dismiss and Plaintiff's Motion to Strike Extrinsic Evidence currently set for January 7, 2008 at 2:00 p.m., and the Status Conference currently set for January 28, 2008 at 2:00 p.m.

Specifically, the parties stipulate to the following:

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**STIPULATION FOR CONTINUANCE OF HEARING DATE
AND STATUS CONFERENCE DATE; ORDER**

CASE NO: 2:07-CV-02199-WBS-EFB

1. The Receiver filed a motion to dismiss all claims in the complaint on October 17, 2007 and set the hearing on that motion for November 26, 2007.
2. On October 17, 2007, the Court issued an Order Setting Status (Pretrial Scheduling) Conference of December 3, 2007.
3. On October 19, 2007, Defendant CDCR filed a joint stipulation for an extension of time to file and serve a responsive pleading on or before November 15, 2007.
4. On November 7, 2007, the parties filed a Stipulation for Order And Proposed Order Continuing Scheduling Conference Currently Set For December 3, 2007 which proposed postponing the Status Conference until January 21, 2008.
5. On November 14, 2007, the Court issued an Order continuing the Status Conference to January 28, 2008.
6. On November 13, 2007, Plaintiff filed an Opposition to Defendant Sillen's Motion to Dismiss and a Motion to Strike Extrinsic Evidence to be heard simultaneously with Defendant Sillen's motion.
7. On November 13, 2007, the Court issued a Minute Order that Plaintiff's motion was improperly noticed according to Local Rule 78-230(b) and instructed Plaintiff to file an Application and Request for Leave to Shorten Time pursuant to 6-144(e).
8. On November 15, 2007, Defendant CDCR filed a Motion to Dismiss scheduled for hearing on the next available hearing date of January 7, 2008.
9. On November 15, 2007, the Court issued a Minute Order continuing Defendant Sillen's Motion To Dismiss and Plaintiff's Motion to Strike to January 7, 2008, thereby making the Motion to Shorten Time moot.
10. Defendant CDCR's counsel is scheduled to be out of town for the holidays from December 21 until December 26, 2007.
11. According to Civil Local Rule 78-230, any opposition brief by Plaintiff to Defendant CDCR's motion is due by December 21, 2007 and because the New Year holiday and the intervening weekend are non-court days, any reply briefs by Defendant CDCR and Defendant Sillen would be due December 28, 2007.

12. In order to provide the parties sufficient time to prepare their respective briefs without interfering with holiday plans, Defendant CDCR proposed continuing the hearing on the pending motions to the next available January date. However, counsel for Plaintiff is unavailable the remaining January dates.

13. Therefore, the parties stipulate to continue the hearing date of Defendants' Motions to Dismiss and Plaintiff's Motion to Strike to February 19, 2008 at 2:00 p.m.

14. The parties continue to assert that it will be difficult to develop a meaningful discovery plan or to make appropriate initial disclosures until the Court rules on which parties and which claims, if any, will remain in the case.

15. Based on the above, the parties submit that continuing the Status (Pretrial Scheduling) Conference until after the initial pleading motions have been heard and ruled upon will avoid unnecessary expenditure of the parties' and court's time and resources in preparing for the Conference currently scheduled for January 28, 2008.

16. Thus the parties stipulate to an Order continuing the Status Conference to March 10, 2008 at 2:00 p.m. or as soon thereafter as the Court may deem appropriate. If the case survives Defendants' motions, any remaining parties shall meet and confer with respect to the matters in the Court's Order Setting Status Conference and shall submit a joint statement in conformance with Federal Rule of Civil Procedure 26(f).

Respectfully submitted,

Date: December 7, 2007

/s/ Garrett E. Dillon as authorized on 12/7/07
GARRETT E. DILLON
Watt, Tieder, Hoffar & Fitzgerald, LLP
Attorney for Plaintiff

Date: December 7, 2007

/s/ Martin H. Dodd as authorized on 12/7/07
MARTIN H. DODD
Futerman & Dupree, LLP
Attorney for Defendant Sillen

Date: December 7, 2007

/s/ Michelle M. Mitchell
MICHELLE M. MITCHELL
Deputy Attorney General
Attorneys for Defendant CDCR

ORDER

Based on the foregoing stipulation, it is hereby ORDERED that Defendants' Motion to Dismiss and Plaintiff's Motion to Strike currently set for January 7, 2008 be continued to February 19, 2008 at 2:00 p.m. Furthermore, it is hereby ORDERED that the Status Conference currently set be continued to March 10, 2008 at 2:00 p.m. Any parties remaining in the case shall meet and confer with respect to the matters set forth in the Order Setting Status (Pretrial Scheduling) Conference, filed October 17, 2007, and shall submit a Status Conference statement in conformance with Federal Rule of Civil Procedure 26(f).

Dated: December 7, 2007



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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